

Message Text

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PAGE 01 MANILA 04337 161103 Z

15

ACTION EB-11

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 4513

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E. O. 11652: NA

TAGS: EIND, RP

SUBJECT: PROPOSED REVISION OF PHILIPPINE TRADEMARK LAW

1. BEGIN SUMMARY: GOP CURRENTLY HOLDING HEARINGS ON PRESIDENTIAL DECREE 49- B TO REVISE PATENT AND TRADEMARK LAW. ONE PROPOSAL UNDER CONSIDERATION WOULD ELIMINATE WITHIN TWO YEARS FOREIGN TRADEMARKS AND BRAND NAMES ON ITEMS MANUFACTURED AND MARKETED IN THE PHILIPPINES. WE HAVE EXPRESSED CONCERN TO GOP OVER PROPOSED DECREE. ACTION REQUESTED: GUIDANCE ON U. S. POSITION ON EFFORTS TO ELIMINATE USE OF FOREIGN TRADEMARKS ON ITEMS MANUFACTURED AND MARKETED IN PHILIPPINES. END SUMMARY

2. IN ADDITION REVISIONS COPYRIGHT LAW (PRESIDENTIAL DECREE 49) AND PATENT LAW (PRESIDENTIAL DECREE 49- A), GOP IS CURRENTLY HOLDING HEARINGS ON PROPOSED PRES. DECREE 49- B WHICH WOULD REVISE TRADEMARK AND TRADENAME LAW. PROPOSALS ARE BEING CONSIDERED BY GOP SUB- COMMITTEE ON COMMERCE AND INDUSTRY, CHAIRED BY JOSE A. UNSON. ALTHOUGH SEVERAL VERSIONS OF DECREE ARE BEING CIRCULATED MOST DAMAGING WOULD APPEAR TO BE THAT DEVELOPED BY RADIOWEALTH, INC., A PHILIPPINE COMPANY ENGAGED IN MANUFACTURE OF RADIOS AND TELEVISION SETS. RADIO-WEALTH' S PROPOSAL WOULD AMEND TRADEMARK LEGISLATION

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PAGE 02 MANILA 04337 161103 Z

(REPUBLIC ACT 166) TO ELIMINATE WITHIN A TWO- YEAR PERIOD THE USE OF QUOTE FOREIGN UNQUOTE TRADEMARKS AND BRAND NAMES ON ITEMS MANUFACTURED AND MARKETING IN THE PHILIPPINES. FOREIGN TRADEMARKS WOULD HAVE TO BE REPLACED BY LOCAL TRADEMARKS. PERTINENT PORTION OF DRAFT DECREE READS AS FOLLOWS: QUOTE FOREIGN TRADEMARKS AND TRADE NAMES (GRANDS) ARE HERBY PROHIBITED ON LOCALLY MANUFACTURED PRODUCTS. PROVIDED, HOWEVER, THAT THOSE NOW BEING USED ON LOCALLY MANUFACTURED PRODUCTS SHALL BE PHASED OUT WITHIN TWO YEARS FROM EFFECTIVITY THEREOF DURING WHICH PERIOD THE REPLACING TRADEMARKS OR TRADE NAMES SHALL BE FOLLOWED BY THE QUALIFYING NOTE THAT THE NEW BRANDS REPLACE THE CORRESPONDING FORMER TRADEMARKS OR TRADE NAMES UNQUOTE.

3. IN EXPLANATORY NOTE TO DRAFT DECREE, RADIOWEALTH STATES ITS PROPOSAL WILL IMPLEMENT THE PROVISIONS IN THE NEW CONSTITUTION AND THE OBJECTIVES OF THE NEW SOCIETY FOR A MORE DYNAMIC NATIONALISM. IN ADDITION, RADIOWEALTH SUGGESTS THAT ELIMINATION OF FOREIGN BRAND NAMES WILL DEMINISH UNDUE FOREIGN COMPETITION AND ASSIST FILIPINOS TO ACHIEVE A MORE COMPETITIVE POSITION. RADIOWEALTH PROPOSAL NOTES THAT 1971 CONSTITUTIONAL CONVENTION HAD INCLUDED IN EARLIER DRAFTS OF CONSTITUTION A PROVISION ON THE USE OF LOCAL TRADEMARKS ON LOCALLY MANUFACTURED PRODUCTS BUT THAT THIS WAS LEFT OUT OF FINAL VERSION.

4. EMBOFFS CALLED ON UNSON ON APRIL 12 TO EXPRESS CONCERN OVER PROPOSED DECREE 49- B. UNSON SAID HE FULLY AWARE OF CONCERN ON THE PART OF FOREIGN COMPANIES AND GOVERNMENTS, AND ADDED THAT A TRADEMARKS OR TRADE NAMES IS CONSIDERED BY MANY COMPANIES TO BE THEIR MOST VALUABLE ASSET. UNSON SAID NO TIMETABLE ESTABLISHED FOR FINAL CONSIDERATIONS PROPOSED DECREE 49- B. AS IS THE CASE WITH 49- A, UNSON SAID THAT THE NATIONAL ECONOMIC DEVELOPMENT AUTHORITY (NEDA) HAD REQUESTED A FULL BRIEFING ON THE MATTER. LOCAL AMERICAN COMPANIES ARE FULLY APPRISED OF SITUATION AND ARE MAKING THEIR OPPOSITION KNOWN THROUGH VARIOUS CHANNELS, INCLUDING THE AMERICAN CHAMBER OF COMMERCE.

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PAGE 03 MANILA 04337 161103 Z

5. ACTION REQUESTED: IN ORDER PURSUE MATTER FURTHER WITH GOP
OFFICIALS, WOULD APPRECIATE GUIDANCE ON U. S. POSITION
REGARDING EFFORT TO ELIMINATE USE OF FOREIGN TRADEMARKS
ON PRODUCTS MANUFACTURED AND MARKETING IN THE PHILIPPINES.
BYROAD

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